IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7261 of 2004

Between:

Korisapati Krishna Mohan S/o Hanumanatha Rao
P.Gudipadu, Korisapadu Mandal,
Prakasam Dist

..... PETITIONER

AND

1 The Dy. Inspector General of police Guntur Range, Guntur
Guntur Dist
2 The Superintendent of Police Prakasam District at Ongole
Smt. Charu Sinha
3 The Sub-Inspector of Police Reningavaram P.S., J.Pangulur
Mandal Prakasam Dist, Rep by Sri Paramdhamaiah

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not conducting enquiry though directed to conduct an enquiry in the matter and ensure justice to be done to the petitioner as illegal, arbitrary and in violation of exercising their Statutory Functions apart from Art. 14,16 and 21 of Constitution of India and consequently, direct the 2nd respondent to conduct an enquiry as per the orders issued by herself vide endorsement dt. 18/11/2003 and dt.

08/12/2003 against the illegal activities and immoral attitude on part of the 3rd respondent and take suitable action against 3rd respondent and to pass appropriate orders.

Counsel for the Petitioner: MR.SRINIVAS KURRA

Counsel for the Respondents: GP FOR HOME

The Court at the stage of admission made the following:

ORDER:

The petitioner seeks a declaration that the alleged action on the part of the respondents in not conducting enquiry in pursuance of his complaint as arbitrary and illegal.

2. The petitioner states that he is the resident of P.Gudipadu village of Korisapadu Mandal in Prakasam District. He owns certain lands in Reningavaram Village, which have been leased out to IBP Company for running a retail outlet by name Srikar Filling Station which was being run by one Sri Potharaju Srinivasa Rao, who is the brother-in-law of the petitioner, where the petitioner worked as Manager for some time. Subsequently, it appears certain disputes arose between the petitioner and his brother-in-law and in the family settlement it was agreed that the petitioner shall pay Rs.4,00,000/- towards developmental charges of the site and in turn his brother-in-law-Srinivasa Rao shall hand over the cheques kept in his custody. In pursuance thereof the petitioner paid the amount but Srinivasa Rao did not return the cheques and ran away with the cash. The petitioner issued a notification in the newspapers stating that the said Sri Potharaju Srinivasa Rao has stolen the cheques from him and he also instructed his banker not to give effect to those cheques. While so, on 10.11.2003 the Sub-Inspector of Police deputed one Sri R.Punnaiah, Home Guard, and Venkateswarlu, Constable, to the residence of the petitioner and the petitioner was directed to appear before the Sub-Inspector of Reningavaram. It is alleged that the petitioner was put behind the bars by the 3rd respondent and he was

also informed that a crime has been registered against him. His brother-in-law-Srinivasa Rao and his henchmen were present in the Police Station. It is further alleged that the 3rd respondent threatened the petitioner that he will be implicated in false cases if the facts are revealed to the Magistrate. However, the petitioner was enlarged on bail on 12.11.2003 and in view of the high handed action of the respondents, he made a representation to the 2nd respondent-Superintendent of Police, Prakasam District, on 14.11.2003. Though the 2nd respondent received the same and made an endorsement directing the Circle Inspector of Police, Inkollu, to personally enquire into the matter, there was no response from the said Circle Inspector of Police. It is alleged that in spite of the repeated requests made by the petitioner there was no progress and no action has been taken in pursuance of the representation made by him. Hence, this writ petition.

3. On behalf of the 3rd respondent, the Sub-Inspector of Police, J.Pangulur Police Station, Prakasam District, filed a counter-affidavit denying all the allegations made by the petitioner. It is further stated that the brother-in-law of the petitioner-Sri PotharajuSrinivasa Rao lodged a complaint on 12.10.2003 stating that on 06.10.2003 at about 19 hours the petitioner along with his father and other residents of the village trespassed into the Srikar Filling Station at Reningavaram and threatened the complainant with dire consequences. On the basis of the said complaint, Crime No.43 of 2003 was registered under Sections-447 and 506 of the Indian Penal Code of J.Panguluru Police Station and thereafter the investigation was taken up. In pursuance of the same, the petitioner and his father were arrested on 11.11.2003 and after complying with all the formalities of the arrest, they were produced before the Judicial First Class Magistrate, Adhoni, on 11.11.2003, and they were remanded to the judicial custody. When they were produced before the Judicial First Class Magistrate, Adhoni, though the learned Magistrate questioned them, the petitioner never made any complaint about the illegal detention or ill-treatment by the Police. The investigation was

completed and a charge sheet was filed on 20.11.2003 and the same was taken on file as C.C.No.259 of 2003, which is pending trial.

4. So far as the allegation that the Police have been threatening the petitioner, it has been stated that they never interfered with the civil disputes of the petitioner and his brother-in-law and they have taken action only with regard to the alleged incident that the petitioner and his father along with others trespassed into the petrol bunk on the basis of the complaint received by them. The representations submitted by the petitioner before the Superintendent of Police were forwarded to the Inspector of Police, Inkollu Circle, in pursuance of which a detailed enquiry has been conducted and the report has been submitted stating that the signatures of the petitioner and his father were not obtained on blank papers and the cheques in the Police Station as alleged by the petitioner. On the other hand, the report also reveals that the petitioner along with his father and some others went to the petrol bunk at Reningavaram and behaved in a highhanded manner on 06.10.2003, due to the civil disputes between the petitioner and his brother-in-law. A copy of the said report dated 06.11.2003 is placed before this Court.

5. Having regard to the counter averments, which stood unrebutted, the allegations of the petitioner cannot be accepted and therefore, the declaration as prayed for cannot be granted.

6. Accordingly, recording the statement of the respondents in the counter-affidavit, the writ petition is closed. No costs.

G.ROHINI, J

30.07.2004

DR

To

1 The Dy. Inspector General of police Guntur Range, Guntur Guntur Dist
2 The Superintendent of Police Prakasam District at Ongole Smt. Charu Sinha
3 The Sub-Inspector of Police Reningavaram P.S.,

J.Pangulur Mandal Prakasam Dist.

4 Two CD copies to Government Pleader for Home, High Court

Buildings, Hyderabad. (OUT)

5 Two CD copies.